

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 Willie Mary Miller,
4

Case No. 2:13-cv-1585-JAD-CWH

5 Petitioner,

6 v.

**Order Adopting
Report and Recommendation [Doc. 5] and
Denying Application to Proceed
in Forma Pauperis [Doc. 6]**

7 Commissioner of Social Security
8 Administration,
9

10 Respondent.

11 This social security matter comes before the Court on petitioner Willie Mary Miller's
12 application to proceed *in forma pauperis*. Doc. 4. Magistrate Judge Hoffman originally denied
13 without prejudice Miller's first *in forma pauperis* motion, noting that she had submitted an
14 incomplete application as she had not provided the court with any indication of her housing
15 expenses. Doc. 2 at 1. Miller re-submitted her *in forma pauperis* application, in which she
16 indicated that she receives approximately \$1,412 per month in income,¹ "that her total amount
17 of debt is none, [she] has no dependents," and she has monthly expenses of between \$299.70
18 and \$344.70. Doc. 4. Magistrate Judge Hoffman found that Miller's income was sufficient to
19 support her filing fee, and he recommended denying the *in forma pauperis* application. Doc.
20 5 at 2. Miller objected. Doc. 6.

21 A U.S. Magistrate Judge may be designated to "conduct hearings . . . and to submit
22 proposed findings of fact and recommendations" regarding the disposition of motions before
23 the Court.² A party may file objections to these proposed findings and recommendations, which
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27 ¹ This amount is apparently supplemented in some months by a \$100 food contribution from the
Jewish Federation of Las Vegas, although the regularity of this assistance is not stated. See Doc. 4 at 13.

28 ² 28 U.S.C. § 636(b)(1)(B).

1 the district court reviews de novo.³ The standard of review applied to the unobjected-to portions
2 of the report and recommendation is left to the district judge's discretion.⁴

3 Miller does not challenge Judge Hoffman's conclusion regarding her entitlement to *in*
4 *forma pauperis* status based on her income as stated on the application, and the Court declines
5 to reconsider it. Instead, Miller's one-page objection asks for another chance to complete the
6 form: although her disability impairs her ability to stay focused, since speaking to an attorney
7 she has recognized that she does, in fact, have debt that was not disclosed on her second *in*
8 *forma pauperis* application, and thus not considered by Judge Hoffman. Doc. 6 at 2. She
9 attaches a document purporting to itemize some of her debts, including a \$1,380 "CCI" balance,
10 Doc. 6 at 4, and an \$8,841.28 student loan balance. Doc. 6 at 7-8. She also includes a page
11 with handwritten figures that include a \$157,000 debt as the cosigner of a house, an estimated
12 \$23,000 car payment, and \$13,000 in payments to Clark County Medical. Doc. 6 at 11. She
13 claims to have "requested a copy of [her] credit report to prove [her] debt." *Id.* However, in
14 the almost ten months that have passed since Miller purportedly made that request, she has
15 failed to request leave to supplement her application.

16 Not only did Judge Hoffman provide Miller with an opportunity to correct her first,
17 defective *in forma pauperis* application—placing her on notice that she should carefully fill out
18 the form, or seek assistance in completing it—but this Court has allowed her ample time to
19 supplement, or attempt to supplement, the record in this case before undertaking to rule on this
20 issue. Having received nothing from Miller for a protracted length of time, I overrule Miller's
21 objections and adopt Judge Hoffman's recommendation to deny her *in forma pauperis*
22 application.

23
24 ³ 28 U.S.C. § 636(b)(1); *United States v. Berhardt*, 840 F.2d 1441, 1444 (9th Cir. 1988); *Schmidt v.*
25 *Johnstone*, 263 F. Supp. 2d 1219, 1125 (D. Ariz. 2003) (quoting *United States v. Reyna-Tapia*, 328 F.3d
26 1114, 1122 (9th Cir. 2003)) (finding that de novo review is required as to findings of fact and conclusions of
law where parties object).


27 ⁴ 28 U.S.C. § 636(b)(1); *Reyna-Tapia*, 328 F.3d at 1121-22 (a "district judge must review the
28 magistrate judge's findings and recommendations de novo *if objection is made*, but not otherwise.")
(emphasis in original).

Conclusion

IT IS THEREFORE ORDERED that Miller's Objections to Magistrate Judge Hoffman's Report and Recommendation [Doc. 6] are **OVERRULED**.

IT IS FURTHER ORDERED that Judge Hoffman's Report and Recommendation [Doc. 5] is **ADOPTED**. Miller's Application to Proceed *in forma pauperis* [Doc. 4] is **DENIED**. Miller has 30 days to pay the \$400.00 filing fee. Miller's failure to comply with this order by timely payment of the filing fee may result in dismissal of this action without further prior notice.

DATED September 18, 2014.


JENNIFER A. DORSEY
UNITED STATES DISTRICT JUDGE

Clerk to notify:

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